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Dated: June 4, 2004

Signature: _____

(Diane Blevins)

Docket No.: 524012000200
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Mingdong ZHOU

Application No.: 09/980,672

Art Unit: 1654

International Filing Date: December 21, 1999

Examiner: M. A. Audet

For: CARDIAC MUSCLE FUNCTION AND
MANIPULATION

AMENDMENT IN RESPONSE TO OFFICE COMMUNICATION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Communication dated May 4, 2004, for which a response is due on June 4, 2004. Accordingly, this response is timely filed. Reconsideration and allowance of the pending claims, as amended, in light of the remarks presented herein are respectfully requested.

The Examiner alleges that the reply filed on Feb. 5, 2004 is not fully responsive to the prior Office Action. According to the Examiner:

The elected invention was drawn to a method of inducing remodeling of cardiac muscle...using neuregulin. Applicant has amended the claims to now further encompass any functional fragment of neuregulin or a nucleic acid encoding any neuregulin protein, or a functional fragment, thereof. Thus, the added claims are no longer drawn to using neuregulin (i.e., assumed to be SEQ ID NO: 2, see new claim 34), but also to using

numerous neuregulin fragments, as well as nucleic acids and nucleic acid fragments. Therefore, the response is held to be inadvertently non-responsive.

Applicant is puzzled by the Examiner's assertion that the reply filed on Feb. 5, 2004 is not fully responsive to the prior Office Action. In the previous Amendment, the applicant elected to prosecute Group II, claims 2, 16, 17 and 25-29. These claims, as filed and amended by the October 23, 2001 Preliminary Amendment, are not limited to the use of a full length neuregulin protein only. For example, the use of a nucleic acid encoding a neuregulin protein to provide for a neuregulin protein is specifically recited in the original claim 3 and in claim 25 as added in the October 23, 2001 Preliminary Amendment. In addition, the original claim 16 specifically recites the use of "a neuregulin or its derivatives." Accordingly, the applicant respectfully requests the Examiner to withdraw the non-responsive finding and to examine the presently pending claims on the merits. Should the Examiner believe that the applicant's statement does not overcome the non-responsive finding, the undersigned requests a telephonic interview with the Examiner to further discuss the issue.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 52401-2000200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: *June 4, 2004*

Respectfully submitted,

By 

Peng Chen

Registration No.: 43,543

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PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/980,672	
	Filing Date	International Filing Date: December 21, 1999	
	First Named Inventor	Mingdong ZHOU	
	Art Unit	1654	
	Examiner Name	M. A. Audet	
Total Number of Pages in This Submission	3	Attorney Docket Number	524012000200

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply (2 pages) <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard
<div>Remarks</div> <div>CUSTOMER NO. 25225</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	MORRISON & FOERSTER LLP Peng Chen - 43,543
Signature	
Date	June 4, 2004

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Signature: (Diane Blevins)